

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

PATRICIA O'DONNELL

-VS-

THE PEOPLES GAS LIGHT AND COKE
COMPANY

No. 03-0246

Complaint as to Respondent has
threatened to disconnect the
gas to my apartment due to
bill incurred by a former tenant
from February 2000 to February
2002, in Chicago, Illinois.

Chicago, Illinois

May 26, 2004

Met pursuant to notice at 11:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

1 APPEARANCES:

2 MS. PATRICIA O'DONNELL
3 949 North Damen Avenue
4 Chicago, Illinois 60622
5 Appearing pro se;

6 McGUIRE WOODS, by
7 MS. ERIN L. ZIAJA
8 77 West Wacker Drive
9 Suite 4400
10 Chicago, Illinois 60601
11 Appearing for Peoples Gas.

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SULLIVAN REPORTING COMPANY, by
Christine L. Kowalski, RPR

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I N D E X

			Re-	Re-	By
<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>direct</u>	<u>cross</u>	<u>Examiner</u>
(None.)					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
(None so marked.)		

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call
3 Docket 03-0246. This is a complaint by Patricia
4 O'Donnell versus Peoples Gas Light and Coke Company
5 as to Respondent has threatened to disconnect the gas
6 to my apartment due to a bill incurred by a former
7 tenant from February 2000 to February 2002, in
8 Chicago, Illinois.

9 And Ms. O'Donnell, would you state
10 your names and address for the record now, please.

11 MS. PATRICIA O'DONNELL: Patricia O'Donnell,
12 949 North Damen Avenue, Chicago, Illinois 60622.

13 JUDGE RILEY: And Counsel, would you enter an
14 appearance for Peoples Gas.

15 MS. ZIAJA: Erin Ziaja, that's Z-i-a-j-a. I'm
16 with McGuireWoods at 77 West Wacker in Chicago.

17 JUDGE RILEY: Thank you. And I would note for
18 the record that this matter was closed in February,
19 and a proposed order had been sent out recommending
20 dismissal of this matter because we had not heard
21 from the Complainant for two status -- consecutive
22 status sessions.

1 The plaintiff -- Complainant contacted
2 the ALJ in April and stated that she was still
3 interested in pursuing the matter and we found out at
4 that time that the Complainant's address had changed,
5 that no notice had been given to the Clerk's Office,
6 and that as a result she had not gotten any of the
7 notices for the January or February status sessions
8 or the proposed order. This matter was therefore
9 reopened without objection on April 26th, 2004, and
10 this status session was set.

11 Where we are right now is that this
12 matter is over a year old and it has not yet gone to
13 hearing. My attitude right now, unless the parties
14 have something else to offer, is to set a discovery
15 schedule and a hearing date for the resolution of
16 this matter.

17 Ms. O'Donnell, the issue in your case,
18 as far as I can tell, is that you are being billed as
19 the owner of a building for gas usage that was
20 actually used by tenants.

21 MS. PATRICIA O'DONNELL: Mm-hmm.

22 JUDGE RILEY: And the difficulty that you have

1 encountered is that you don't have any documentation
2 to show that tenants lived there.

3 MS. PATRICIA O'DONNELL: Well, I did have the
4 document that was from the Social Security Board that
5 showed that he lived on the first floor.

6 JUDGE RILEY: All right. Hang on to that under
7 any circumstances.

8 What would the parties propose for a
9 discovery schedule? How long do you think it would
10 take -- does Peoples Gas want to send out data
11 requests or simply request certain items from the
12 Complainant and does Complainant want to request
13 certain items from Peoples Gas?

14 MS. ZIAJA: I would certainly want to send out
15 some limited discovery, at least what would go to
16 prove the fact that there was a tenant on the first
17 floor.

18 JUDGE RILEY: Okay.

19 MS. ZIAJA: I think that that seems to be the
20 defined issue within the complaint and so I think I
21 can narrow the focus of my discovery requests to that
22 issue.

1 JUDGE RILEY: All right.

2 MS. ZIAJA: Maybe three weeks or two weeks to
3 send out discovery requests, two to three weeks to
4 respond, and then an evidentiary hearing?

5 JUDGE RILEY: Okay. Ms. O'Donnell, is there
6 any documentation that you can think of that you
7 would want to obtain from Peoples Gas or elsewhere?

8 MS. PATRICIA O'DONNELL: Yes, there's one
9 because I spoke to James Surney again (phonetic) --

10 JUDGE RILEY: All right.

11 MS. PATRICIA O'DONNELL: -- and I asked him if
12 he had -- after the gas was turned off if he turned
13 it back on, and he says no he didn't have to, that
14 they kept sending bills to occupant.

15 JUDGE RILEY: Okay. All right.

16 MS. PATRICIA O'DONNELL: So I would like proof
17 from them that they indeed did turn the gas off since
18 they claim that that's the only reason I'm liable.

19 JUDGE RILEY: All right. Do you know how -- do
20 you have any proposal as how to obtain that proof?

21 MS. PATRICIA O'DONNELL: They should have work
22 orders.

1 JUDGE RILEY: When you say "they," you mean --

2 MS. PATRICIA O'DONNELL: Peoples Gas.

3 JUDGE RILEY: All right. Do you -- are you

4 familiar with the process of how to obtain that

5 information from Peoples Gas, making a discovery

6 request?

7 MS. PATRICIA O'DONNELL: Uhn-uhn.

8 JUDGE RILEY: It would have to be in writing

9 obviously.

10 And it would be made through you,

11 Counsel?

12 MS. ZIAJA: She could send any discovery

13 requests directly to me.

14 JUDGE RILEY: All right. Word it as best you

15 can. Identify specifically as close as you can as to

16 what it is you want from Peoples Gas with regard to

17 work orders or whatever.

18 MS. PATRICIA O'DONNELL: Mm-hmm.

19 JUDGE RILEY: Include the account number if you

20 have it, any possible dates that you may have, and

21 submit that to Counsel. In other words, what I'm

22 saying is with all of the detail that you can

1 muster --

2 MS. PATRICIA O'DONNELL: Okay.

3 JUDGE RILEY: -- put that in writing to

4 Counsel.

5 MS. PATRICIA O'DONNELL: Okay.

6 JUDGE RILEY: And see what response you get

7 from there. And that would go for any other utility

8 or any other business or any other entity that could

9 possibly provide evidence to support your claim.

10 MS. PATRICIA O'DONNELL: Okay.

11 JUDGE RILEY: In other words, you wouldn't send

12 that to Counsel, you would send that to whoever you

13 could identify.

14 MS. PATRICIA O'DONNELL: Does that have to be

15 notarized when I send it?

16 JUDGE RILEY: I don't know if a data request

17 has to because these things are not filed with the

18 Commission.

19 MS. ZIAJA: Right. I would agree to waive any

20 requirement for notarization if it's sent directly to

21 me.

22 JUDGE RILEY: Okay. A signature would be...

1 MS. ZIAJA: A signature would be fine.

2 JUDGE RILEY: Would be fine, okay.

3 MS. PATRICIA O'DONNELL: Okay. Could I get
4 your business card?

5 MS. ZIAJA: Mm-hmm.

6 JUDGE RILEY: I'm wondering if three weeks are
7 going to be sufficient, that's all. How long did you
8 say would be sufficient for you?

9 MS. ZIAJA: It would be -- three weeks would be
10 sufficient for me to send out discovery requests
11 certainly.

12 JUDGE RILEY: Okay.

13 MS. ZIAJA: If you want to push it farther
14 back, that's fine as well. I'm pretty open in terms
15 of how you --

16 JUDGE RILEY: I suppose what I'm more concerned
17 about is the time for the response.

18 MS. ZIAJA: Yeah.

19 JUDGE RILEY: And I'm leaning more toward two
20 weeks for a response.

21 MS. ZIAJA: Two weeks for a response?

22 JUDGE RILEY: Right. To collect whatever

1 information -- I'm thinking more in terms of
2 Ms. O'Donnell for her to gather records together and
3 xerox copies if she has to, that kind of thing.

4 MS. ZIAJA: Sure.

5 JUDGE RILEY: And then a certain amount of time
6 to review the information and prepare for hearing.
7 That would probably entail -- would another ten days
8 be sufficient, do you think, to look the information
9 over and...

10 MS. ZIAJA: I think that would be fine. Do you
11 want to do a status in between or...

12 JUDGE RILEY: Not really.

13 MS. ZIAJA: Okay.

14 JUDGE RILEY: I'm going to leave it to the
15 parties to get their data requests exchanged and to
16 respond.

17 MS. ZIAJA: Okay.

18 JUDGE RILEY: I think that can be done without
19 a status. What I would do is if the parties
20 requested a status due to some snag or some
21 unforeseen difficulty, then we could schedule an
22 interim status if it was necessary.

1 MS. ZIAJA: Okay.

2 JUDGE RILEY: We could squeeze one in very
3 quickly.

4 MS. ZIAJA: All right.

5 JUDGE RILEY: But otherwise, I don't see the
6 need for another status.

7 But three weeks to get the data
8 requests written up, organized, and sent out to
9 Counsel and whoever else you may have --

10 MS. ZIAJA: So that would be June 16th if I'm
11 looking at this right?

12 JUDGE RILEY: That's three weeks from today.
13 Does June 16 sound sufficient to you?

14 MS. PATRICIA O'DONNELL: Mm-hmm.

15 JUDGE RILEY: All right. Two weeks for
16 responses would take us to June 30th. Is that
17 sufficient?

18 MS. ZIAJA: Mm-hmm.

19 JUDGE RILEY: And why don't we make it an even
20 two weeks for a hearing. That would take us to
21 July 14. Ah, I've got a matter up at 10:00. And I'm
22 going on vacation after that for five days. July

1 13th?

2 MS. ZIAJA: I'm fine with the 13th.

3 JUDGE RILEY: That's just under two weeks but

4 that should still give every one plenty of time to

5 look over the information.

6 MS. ZIAJA: Sure.

7 JUDGE RILEY: If it is inordinately voluminous

8 as it turns out and more time is needed, I'll be open

9 to granting an extension. But again, I would think

10 that from the 30th to the 13th -- that's 13 days.

11 MS. ZIAJA: That should be fine.

12 MS. PATRICIA O'DONNELL: Mm-hmm.

13 JUDGE RILEY: Parties deem that sufficient?

14 MS. PATRICIA O'DONNELL: Yeah.

15 MS. ZIAJA: I agree to that.

16 JUDGE RILEY: Okay.

17 MS. ZIAJA: What time on the 13th?

18 JUDGE RILEY: That will be 10:00 a.m.

19 And Ms. O'Donnell, again I just want

20 to make sure that you understand that as the

21 proponent here, as the person who filed the

22 complaint, it is going to be your burden to go

1 forward first. You will have the burden of proof and
2 to produce the evidence to support the claim that
3 you've made in your complaint. I want to make sure
4 that's understood. That doesn't vary.

5 MS. PATRICIA O'DONNELL: Mm-hmm.

6 JUDGE RILEY: So that's where we are right now.

7 MS. PATRICIA O'DONNELL: I'd like to get one
8 more little piece of information from the gas
9 company. How much of the \$3,000 is actually gas
10 charges and how much of it is past due, late payment
11 when I didn't even know it was in existence?

12 JUDGE RILEY: You might want to write that down
13 now so you remember to ask that question in your data
14 request. Anything that occurs to you like that,
15 please put that in the data request.

16 And one of the other things that I
17 wanted to bring up just to make sure that there
18 aren't any misunderstandings, at our session on
19 October 9, 2003, because of some what I believe were
20 some ComEd records that had been produced, the actual
21 billing period that was involved in this thing -- let
22 me start over.

1 Originally it was February 2000 to
2 February 2002. And as a result of some ComEd records
3 that were produced, it was my understanding that one
4 of your prior Counsel, one of your predecessors
5 reduced the billing period in question from February
6 2000 to October 2001. Were you aware of that?

7 MS. ZIAJA: I was not aware. I haven't
8 reviewed the transcripts --

9 JUDGE RILEY: There has been no motion to amend
10 the complaint. But I wanted to bring that to your
11 attention. I think it might be a very good idea to
12 go back through those transcripts.

13 MS. ZIAJA: Yeah.

14 JUDGE RILEY: And see what the discussion was
15 all about. Again, so there's no surprises here.

16 And it's my understanding also from
17 the notice -- I didn't have a copy of it, but the
18 notice for this hearing, this status session, you
19 said it does have 949 North Damen --

20 MS. ZIAJA: Yes.

21 JUDGE RILEY: -- the Complainant's new address?

22 MS. ZIAJA: Yes, it does.

1 JUDGE RILEY: Okay. So the Clerk's Office does
2 have that.

3 MS. ZIAJA: I never actually received notice
4 from the Clerk of an address change. I did receive
5 that there was a new address on it from the notice of
6 the Administrative Law Judge's ruling that was sent
7 to me.

8 JUDGE RILEY: Okay.

9 MS. ZIAJA: So I don't know if Ms. O'Donnell
10 has ever actually filed anything with the Clerk,
11 changing it on the --

12 MS. PATRICIA O'DONNELL: Judge, you did it for
13 me last time. You said you would do it. You'd make
14 an exception this time, and you did it.

15 JUDGE RILEY: Right. I had put that in the
16 notice of ALJ's ruling so I guess that was
17 sufficient.

18 MS. ZIAJA: Okay.

19 JUDGE RILEY: As long they have 949 North Damen
20 and that's the correct address, then that's all I'm
21 concerned about. And that's where all the notices
22 will go for the Complainant.

1 MS. PATRICIA O'DONNELL: Mm-hmm.

2 MS. ZIAJA: And that is what's reflected.

3 JUDGE RILEY: Okay. We're all right then.

4 MS. ZIAJA: Great.

5 JUDGE RILEY: Was there anything else that we
6 needed to go over today?

7 MS. ZIAJA: I have nothing further at this
8 time.

9 JUDGE RILEY: Ms. O'Donnell, I want to
10 reiterate that anything that you -- any further
11 information that you think that you could obtain from
12 Peoples Gas that would help your case, be absolutely
13 certain to include that in the data requests. And if
14 there are any problems, Counsel and you can work that
15 out as parties do all the time.

16 MS. PATRICIA O'DONNELL: Okay.

17 JUDGE RILEY: But I want to make sure that you
18 know that any questions you have, any documents,
19 anything at all that you think can help your case,
20 please include that in your data request.

21 MS. PATRICIA O'DONNELL: Okay.

22 JUDGE RILEY: Then let me recap. The data

1 requests are going to go out from the parties to each
2 other by June 16. The responses will be due by
3 June 30. And this is all by regular mail at the
4 close of business day. And we will convene for a
5 hearing, an evidentiary hearing, on July 13th, 2004
6 at 10:00 a.m.

7 Was there anything further?

8 MS. ZIAJA: No.

9 MS. PATRICIA O'DONNELL: No.

10 JUDGE RILEY: All right. Then we're continued
11 to July 13, 2004 for hearing. Thank you very much.

12 (Whereupon, further proceedings
13 in the above-entitled matter
14 were continued until
15 July 13, 2004 at 10:00 a.m.)

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